

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

March 10, 2005

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, March 10, 2005, at 2:15 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Morris K. Dunlap, Chair; Harold Warner Jr. Vice-Chair; James Barfield; Darrell Downing; John W. McKay Jr.; Bill Johnson; Bud Hentzen; Ronald Marnell; Elizabeth Bishop; M.S. Mitchell and Gary K. Gibbs. Denise Sherman and Frank Garofalo were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jess McNeely, Associate Planner; Jamsheed Mehta, Transportation Planning Manager; David Barber, Advanced Plans Manager; and Rose Simmering, Recording Secretary.

❖ PLANNING COMMISSION ITEMS

1. Approval of February 24, 2005 meeting minutes.

MOTION: Approval of February 24, 2005 meeting minutes.

MARNELL moved, **MCKAY** seconded the motion, and it carried (11-0).

❖ SUBDIVISION ITEMS

- 2-1. **SUB2005-16 – Final Portion of Overall Preliminary Plat – TRINITY POINT ADDITION, located north of 47th Street South and on the east side of Hoover Road.**

NOTE: This is a final plat of a portion of the overall preliminary plat of Gray's 5th Addition, which was approved for this site on October 18, 2001. This plat represents the second phase of development and connects with the first phase to the north. This plat is consistent with the preliminary plat in regards to street layout and contains two fewer lots.

STAFF COMMENTS:

- A. The Applicant shall guarantee the extension of City water and sanitary sewer to serve the lots being platted.
- B. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. A guarantee is needed for drainage improvements. An off-site drainage agreement is needed along the south property line.**
- C. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- D. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- E. The Applicant shall guarantee the paving of the proposed interior streets to the urban street standard. Sidewalks shall also be provided along one side of all through, non-cul-de-sac streets.
- F. The applicant shall submit a covenant that provides for four (4) off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- Q. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MITCHELL At the Subdivision meeting a week ago, a staff recommendation was made on Trinity Pointe Addition, which is the southern part of a preliminary plat that was approved a few years ago. The issue was that an additional 10 feet of right-of-way was requested for Hoover, which would move that right-of-way out to 60 feet, where in the previous subdivision the request was for 50 feet. The applicant did not agree with that and by the time that we got to the Subdivision Committee meeting the staff had agreed not to request it on the basis that the conditions of the preliminary plat should be vested for the final part of that if the final plat was filed within five years of the preliminary. I am not able to find that clearly stated in the Subdivision Regulations, and I would like for us to move as quickly as possible to correct that so that someone else does not get caught in the situation or be unsure of what the regulations say.

DUNLAP The effort here is to bring that item to our attention. John, what is our procedure to amend that Regulation?

SCHLEGEL What we will do is take a look at that and put together some proposed changes, run that through the Subdivision Committee and eventually it will come back to the MAPC.

MITCHELL Neil, the staff comments that we now have does not include the additional 10 feet?

STRAHL That is correct. That was taken out.

MOTION: To approve subject to staff recommendations.

MITCHELL moved, **WARNER** seconded the motion, and it carried (11-0).

2-2. SUB2005-18 – One-Step Final Plat – LOGAN ACRES ADDITION, located east of 215th Street West and on the south side of 55th Street South.

NOTE: This site is located in the County in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a water availability evaluation must be provided to **Sedgwick County Code Enforcement** to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.
- C. The site is currently located within the Sedgwick County Rural Water District No. 4. If service is available, feasible and the property is eligible for service, **County Code Enforcement** recommends connection.
- D. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan is needed.**
- E. All references on plat to "range 3 west" should be replaced with "range 2 west".

- F. The plat denotes two openings along 55th St. South. **County Engineering requests that the plat be redesigned to move access to Lot 2 to east side of plat.**
- The Subdivision Committee approved the proposed two openings.**
- G. All access drives shall be in accordance with Sedgwick County Service Drive Code.
- H. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- I. The Applicant has platted a 25-ft building setback, which represents an adjustment of the Zoning Code standard of 30 feet for the RR, Rural Residential District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- J. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **The modification has been approved.**
- K. The owners noted in the platting binder need to be signatories to the plat, or a revision to the binder showing that the site's ownership is in the party now shown on the final plat.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- T. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **MARNELL** seconded the motion, and it carried (11-0).

2-3. **DED2005-03 Dedication of Access Control, for property located west of Oliver and on the north side of Central.**

DED 2005-03: Dedication of access control for property located east of west of Oliver and on the north side of Central.

LEGAL DESCRIPTION:

a) Lot 662, except for the west 15 feet and Lot 661, Overlook Addition to Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This dedication is associated with a zoning case (ZON 2004-60) and is being dedicated for complete access control along Central Avenue,

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **MARNELL** seconded the motion, and it carried (11-0).

❖ **PUBLIC HEARINGS – VACATION ITEMS**

3-1. VAC2005-03 – Request to Vacate a Platted Easement.

APPLICANT/OWNER: Ridge Plaza Ventures LLC

AGENT: Griffiths & Associates c/o Art Griffith

LEGAL DESCRIPTION: The platted 20-foot utility easement located between Lots 2 & 3 and a portion of the northeast corner of Lot 4, all in Block A, Ridge Plaza 8th Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of Ridge Road and north of Kellogg Avenue, more specifically southwest of the Emerson/Taft Streets – University Avenue Intersection

REASON FOR REQUEST: To allow future development on this site.

CURRENT ZONING: Subject properties and properties south and east of them are zoned GC General Commercial. Properties to the north, south and the west are zoned LC Limited Commercial.

The applicant is requesting consideration to vacate a platted 20-ft utility easement located between Lots 2 & 3 (10-foot on each lot) and portion of the northeast corner of Lot 4, all in Block A, Ridge Plaza 8th. There are no manholes, sewer or water lines in the easement. Water is located in the Emerson Street ROW. Sewer is located north, across Emerson Street and has access through a platted easement that could allow extension of sewer to the site. Sewer is also located west of the site, but there is no platted easement that would allow an extension of sewer to the site. There are no franchised utilities in the easement, nor is there a future need for the easement. The Ridge Plaza 8th Add was recorded with the Register of Deeds April 15, 1982.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted utility easement, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time February 17, 2005, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted utility easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted utility easement described in the petition should be approved subject to the following conditions:
- (1) If necessary, per the recommendation of the City's Public Works, Water & Sewer Departments and the franchised utilities, provide any additional easement(s) needed for public and franchised utilities.
 - (2) Provide a Restrictive Covenant binding and tying the three lots together.
 - (3) Retain the north 20-feet of the platted utility easement located between Lots 2 & 3, Block A, Ridge Plaza 8th Addition.
 - (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
 - (5) All improvements shall be according to City Standards.
 - (6) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) If necessary, per the recommendation of the City's Public Works, Water & Sewer Departments and the franchised utilities, provide any additional easement(s) needed for public and franchised utilities.
- (2) Provide a Restrictive Covenant binding and tying the three lots together.
- (3) Retain the north 20-feet of the platted utility easement located between Lots 2 & 3, Block A, Ridge Plaza 8th Addition.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
- (5) All improvements shall be according to City Standards.
- (6) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

JOHNSON moved, **BISHOP** seconded the motion, and it carried (11-0).

3-2. VAC2005-04 – Request to Vacate a Contingent Street Right-of-Way.

APPLICANTS: Michael Bahnmaier, Daniel M Carney, Robert Martin, Betty L Mull
Robert Martin & Robert E Kirsch Revocable Trust

AGENT: Baughman Company, PA, c/o Phil Meyer

LEGAL DESCRIPTION: That portion of the platted contingent street dedication laying between Lots 12 & 13, all in Block 1, the Ridge Plaza 4th Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of Holland Lane and north of Kellogg Drive (District V)

REASON FOR REQUEST: Development

CURRENT ZONING: The site is platted contingent dedication of public ROW. The subject properties and properties north, south and east of them are zoned "LC" Limited Commercial. Property west of the subject site is zoned "TF-3" Duplex Residential

The applicant is requesting vacation of the platted contingent dedication of street ROW as described. The Ridge Plaza 4th Addition was recorded with the Register of Deeds July 23, 1973. The plat at the time of its recording shown a contingent dedication of street ROW extending from Holland Lane to Woodchuck Lane. A portion of the Ridge Plaza 4th Addition was replatted as the Woodchuck Villas Addition and was recorded with the Register of Deeds October 9, 1978. The replat vacated the western portion of the contingent dedication of street ROW, causing the remaining contingent dedication of street ROW in the Ridge Plaza 4th Addition to become a dead end. A subsequent replat of the Woodchuck Villas Addition into the Woodchuck Villas 2nd Addition did not reinsert the ROW to its original Woodchuck Lane intersection, thus the remaining contingent dedication of street ROW in the Ridge Plaza 4th Addition remains a dead end. The site is in CUP DP-37.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives, and other interested parties Planning Staff recommends approval to vacate the contingent dedication of street ROW, with conditions:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time February 17, 2005 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described contingent dedication of street ROW and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the contingent dedication of street ROW described in the petition should be approved with conditions;

- (1) Vacate the contingent dedication for public street ROW, per the legal description.
- (2) Retain the platted utility easement that runs within the contingent dedication of street ROW.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant. Provide easement(s) as needed for any relocated utilities.
- (4) All improvements shall be according to City Standards.
- (5) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the contingent dedication for public street ROW, per the legal description.
- (2) Retain the platted utility easement that runs within the contingent dedication of street ROW.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant. Provide easement(s) as needed for any relocated utilities.
- (4) All improvements shall be according to City Standards.
- (5) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

JOHNSON moved, **BISHOP** seconded the motion, and it carried (11-0).

❖ **PUBLIC HEARINGS – ZONING ITEMS**

4. **Case No.: ZON2005-04** – D.H. Cheney (applicant), Don Kimble (agent) Zone change request from “SF-5” Single-family Residential to “OW” Office Warehouse on property described as;

Lot 4, Wall's Addition, Wichita, Sedgwick County, Kansas. Generally located Northeast corner of Central and McComas.

BACKGROUND: The applicant requests OW Office Warehouse zoning on a .37-acre site, currently zoned SF-5 Single-family. The proposed use is a hardwood floor company showroom and storage facility (with no on site construction), located northwest of the Central and McComas intersection. The proposed land use is classified as a non-primarily retail “construction sales and services”, requiring OW or more intense zoning. Attached to this staff report are drawings of the proposed facility, as submitted by the applicant's agent. The applicant proposes utilizing the existing house for an office, and adding a 1,500 square foot building in the back yard for a storage facility. North and east of the application area are SF-5 zoned single-family residences. East of the site, and on the north side of Central, are two other former single-family homes rezoned for non-residential use: at the northwest corner of Central and Kessler is an LC Limited Commercial zoned office use, and at the northeast corner of Central and Kessler is a GO General Office zoned property with an office use. South of the application area, across Central, is an NR Neighborhood Retail strip center and an LC zoned car wash. West of the site, across McComas, is GO zoned vacant land, further west is the LC zoned corner at West Street with retail and bank uses.

CASE HISTORY: The application area is platted as Lot 4 of the Walls Addition.

ADJACENT ZONING AND LAND USE:

NORTH:	“SF-5” Single-Family Residential	Single-family residential
SOUTH:	“NR” Neighborhood Retail	Strip commercial
	“LC” Limited Commercial	Car wash, shopping center
EAST:	“SF-5” Single-Family Residential	Single-family residential
	“SF-5” Single-Family Residential	Single-family residential
	“LC” Limited Commercial	Office
	“GO” General Office	Office
WEST:	“GO” General Office	Vacant commercial land
	“LC” Limited Commercial	Bank, shopping center

PUBLIC SERVICES: Current traffic counts on this segment of Central are 16,222 vehicles per day. Central is a five-lane, section line arterial street at this location with a 50-foot half width right-of-way (ROW). The 2030 Transportation Plan indicates that this section of Central will remain a five-lane arterial. McComas is a local residential street at this location with a 60-foot ROW, no traffic counts or plans exist for McComas. The application area currently has one access point onto Central, within approximately 30 feet of the McComas intersection, which does not meet the Access Management Guidelines. The submitted site plan proposes another access point from McComas.

All other normal public services are available at the site.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the application area as appropriate for "low density residential".

The Unified Zoning Code (UZY) considers "construction sales and services" a commercial use. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Locational Guidelines also recommend that non-neighborhood serving commercial uses should be guided to areas containing similar uses and away from neighborhood commercial areas. The proposed use is not a retail use, and therefore is not considered neighborhood serving.

As the proposed use would include warehousing, the UZY considers that an industrial use. The Industrial Locational Guidelines of the Comprehensive Plan state that industrial traffic should not feed directly onto local streets in residential areas. And, that industrial uses should be generally located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas.

The UZY would require compatibility setbacks between non-residential and residential development, as well as a screening requirement from residential zoning and uses. The proposed site plan shows a 10-foot rear setback, the UZY requires a 25-foot compatibility setback for this proposal, which does not appear to be feasible on this lot. Conformance with the Landscape Ordinance would be required for this proposal.

RECOMMENDATION: The proposed OW zoning would allow a range of commercial and industrial uses not permitted under the current SF-5 zoning and not permitted under any of the surrounding LC, NR, or GO zoning. OW zoning is considered "industrial" by the UZY, and therefore does not permit residential uses, for which the property is currently used.

The proposed zone change is not in conformance with the Land Use Guide or the Locational guidelines of the Plan. The proposed development cannot meet the compatibility setback requirement of the UZY.

Nearby rezonings on this portion of Central have been to LC, GO, and NR; the UZY classifies OW as more intense than those zones, and a jump to the industrial category. A rezoning to NR or NO would be compatible with the surrounding zoning and land uses, and act as a buffer from more intense zoning to the abutting SF-5 zoning. The proposed OW rezoning and development would not be compatible with surrounding zoning and land uses. The proposed warehousing and commercial vehicle parking on this site do not appear to be adequately buffered from single-family residences.

MAPD has not been contacted by any members of the public regarding this case.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This proposed rezoning and proposed land use is out of character with nearby NR, LC, and GO zoning and development; and is out of character with the abutting single-family neighborhood. Uses permitted in the OW district are out of character with the surrounding residential and neighborhood commercial uses.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used as a single-family residence as currently zoned. However, staff recognizes the pattern of rezoning on this portion of Central. This property could be used for neighborhood office or retail, similar to the surrounding rezoned properties.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning and the proposed development could have negative effects on the single-family residences north and east of the application area. Proposed warehousing use, and other uses permitted in the OW zone, could generate noise and large vehicle traffic in this residential area. Likewise, presence of warehousing facilities and commercial vehicles would not be conducive to the attractiveness of a residential neighborhood.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this site as appropriate for "low density residential" development, which is not in conformance with the application. The proposed rezoning is not in conformance with the locational guidelines of the plan. The proposed site plan for this development does not meet the UZY required compatibility setbacks from residential zoning, and does not meet the Access Management Guideline separation distance of access points from intersections.
5. Impact of the proposed development on community facilities: The proposed commercial development could increase traffic at this location on Central. The proposed development would put industrial/warehousing traffic on a local residential street.

However, should the Planning Commission make findings that support this zone change application through the public hearing, planning staff recommends the following Protective Overlay:

1. The applicant shall resubmit the proposed site plan, to be approved by the Planning Director, reflecting no access to Central, and conforming to the Unified Zoning Code screening requirements. The applicant shall dedicate complete access control to Central prior to receiving a building permit on the site.
2. The Site shall be developed in conformance with the approved site plan and building elevation.
3. The applicant shall submit a landscape plan, prepared by a Kansas Landscape Architect, to be approved by the Planning Director. The landscape plan shall require 1.5 times the normally required landscaping to the north, east, and west of all commercial warehousing buildings and commercial vehicle parking. A financial guarantee for the plant material approved on the landscape plan shall be required prior to issuance of building permits.
4. Signage on the site shall be limited to that permitted in the NO Neighborhood Office zone. No signage shall be permitted on McComas Street.
5. Land uses on the site shall be restricted to those permitted by right in the NO Neighborhood Office and NR Neighborhood Retail zones, with the exception of Construction Sales and Service.
6. No outdoor storage shall be permitted on the site.
7. Outdoor lighting on the site shall be restricted to 12 feet in height, and shall be shielded away from residential zoning.

MCNEELY You should have an **additional memorandum** for Agenda Item 4.

1. **BACKGROUND:** This request was considered by DAB 6 on March 7, 2005. The DAB recommended denial by a vote of 9-0.

The agent for the applicant has since met with staff, and has indicated a desire to amend the request to the less intense zoning district of NR Neighborhood Retail. The application proposed use will no longer be for Construction Sales and Services (which is not permitted in the NR district), but is amended to "neighborhood office or neighborhood retail uses." Because this amended request is less intense than the original request, state law and the Unified Zoning Code allow for a public hearing and decision by the Metropolitan Area Planning Commission without re-advertising and re-notifying the request. This amended request will be sent back to DAB 6.

2. RECOMMENDATION:

Consistent with the staff report, staff recommends approval of the zone change request from SF-5 to NR for the proposed use of neighborhood office or neighborhood retail uses.

BISHOP If this has been amended, does that mean the staff recommendation has changed?

MCNEELY Yes, the applicant has come back to staff and requested that their original request of a zone change from "SF-5" Single-family Residential to "OW" Office Warehouse be changed to "SF-5" Single-family Residential to "NR" Neighborhood Retail. In the original staff report we state that we would be supportive of "NR" at that location. We are recommending approval of a zone change to "NR".

BISHOP The application has been changed since it went to the District Advisory Board?

MCNEELY Yes, the District Advisory Board recommended denial of the "OW" Office Warehouse rezoning, and it was after that meeting that the agent for the applicant contacted staff and discussed the idea that they wanted to amend their application. In that the applicant is asking for a less intense zoning than what the original application was for and what this was originally advertised and notified for, by our zoning ordinance and by state law we can go ahead and proceed today with them asking for less intense zoning than what they originally asked for. However, we will send this back to District Advisory Board VI being that it is a significant change since the last time it went to DAB VI, and prior to going to City Council.

DON KIMBLE, P O BOX 41, ANDOVER, KS 67002, Agent for the applicant, All I want to do is make sure that the seven conditions that were recommended by staff, that those conditions also go away with the "OW," and that they are not attached to the revised "NR" zoning request.

MCNEELY Yes, this will be a straight zone change with no conditions.

MOTION: Approve the zone change to "NR" Neighborhood Retail and conditions (1-7) from the "OW" Office Warehouse be deleted.

MARNELL moved, **BISHOP** seconded the motion, and it carried (11-0).

5. **Case No.: ZON2005-03** – Michael Mollett Trust No. 2, John C. Mollett Trust #2, Kathryn Mollett Small Trust No. 2, and Jane Mollett Whitlow Trust No. 2 c/o Mike Higgings, and Ritchie Development (owner), Greg Allison c/o MKEC (agent) Request Sedgwick County Zone change from "SF-20" Single-family Residential and "RR" Rural Residential to "LI" Limited Industrial on property described as;

The West Half of the Northeast Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas. Generally located South of 29th Street North, one-fourth mile west of 127th Street East.

BACKGROUND: The applicant is requesting to rezone an 81-acre tract from "RR" Rural Residential and "SF-20" Single-family Residential to "LI" Limited Industrial for development of industrial/warehousing types of uses. No specific users are identified for the tract.

The property comprises the western half of the northeast quarter section of land located southwest of 29th Street North and 127th Street East.

The surrounding property to the east and most of the north is zone "RR" and is in agricultural use except for several large estates. A high-voltage Westar transmission line is located within the subject tract, paralleling the western edge of the tract. The property west of the transmission line is zoned "SF-20" but was approved for "LI" Limited Industrial in 2000; establishment of the "LI" zoning is pending until platting is completed. The property to the south is zoned "SF-5" Single-family Residential and is being developed with urban-scale single-family homes.

Because of the presence of single-family homes to the south and potential to the north, the proposed industrial use should meet site development standards designed to mitigate conflicts with nearby residential uses.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "RR"	Agricultural, suburban estate
SOUTH: "SF-5"	Single-family Residential subdivision under development
EAST: "RR"	Agricultural, large estate
WEST: "SF-20"	Vacant

PUBLIC SERVICES: The site has access to 29th Street North, an unpaved two-lane county line road designated as a major collector and maintained by the township. No traffic counts or projections are available. No transportation improvements are programmed on capital improvements programs.

The developer would be required to pave 29th Street North to county road standards prior to development of any of the property.

The water line to serve the property is approximately one-half mile to the west on Greenwich and would require a water supply line project to the east edge of the property with a 16" line, responsible for the " equivalent. A sewer main line project would be required going north from the one-half mile line at Woodridge Street (in Fairmont Addition) to the north line of the property. Other normal services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the 1999 *Update to the Wichita/Sedgwick County Comprehensive Plan*, amended in January 2002, identifies the property as "low density residential".

The Industrial Locational Guidelines of the 1999 Update to the Comprehensive Plan recommend that industrial uses: (1) should be located in close proximity to support services and provide good access to major arterials, truck routes, belt highways, utility trunk lines, rail spurs, airports and as extensions of existing industrial uses; (2) should not feed directly into local streets in residential areas; and (3) should be located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The proposed site potentially would constitute an extension of other industrial uses if the property to the west, which is approved for "LI" zoning, develops with industrial uses. Traveling one-half mile westward from the site to Greenwich and one-half mile southward to K-96 keeps traffic away from existing residential neighborhoods to the east and south along 127th Street East. The presence of a residential neighborhood on the southern property boundary poses conflicts that would need mitigation to avoid violating the third industrial locational guideline.

RECOMMENDATION: Although the *Comprehensive Plan* recommends this tract for low-density residential use rather than industrial use, the *Comprehensive Plan* does recommend the abutting property to the east as industrial; furthermore, this abutting tract is approved for "LI" zoning subject to a protective overlay and platting. Also, the 150-acre tract west of Greenwich is being developed as Regency Lakes, an industrial park with a protective overlay. Another 130-acre tract located on the northwest corner of Greenwich and 37th Street North about one and one-half mile northwest of this request was approved subject to platting in 2003. When combined, these tracts represent an industrial/employment center developing in the vicinity, based on proximity to K-96 and Jabara Airport.

The subject tract already has a Westar high voltage transmission line along its western edge, which is less compatible with residential use in close proximity.

Impacts of industrial uses on the property to the south and industrial traffic on 127th Street East can be mitigated to a certain extent by a protective overlay. To mitigate industrial uses, the protective overlay incorporates provisions like those in effect for Regency Park Industrial Park. Staff also recommends a wider buffer and enhanced screening for this development along those corridors shown for residential development on the *Comprehensive Plan*.

Based on this additional information, planning staff recommends that the request for "LI" Limited Industrial zoning be APPROVED, subject to platting the property within one year and subject to the following protective overlay conditions:

1. All uses permitted in the "LI" zoning district except asphalt or concrete plant, limited. For any use with 100,000 square feet of floor area, a traffic study shall be prepared. The City Traffic Engineer may require that additional traffic improvements be guaranteed to support this traffic volume. The total average daily traffic generated by the uses within this property shall not exceed 8,000 ADT.
2. A six (6) to eight (8) foot high solid concrete wall shall be constructed along property lines of the development within a five-foot wall easement where nonresidential uses are adjacent to residential uses, and shall be constructed of a consistent pattern and color.
3. Landscaping shall be as follows unless the site is annexed by the City of Wichita; if annexed, the Wichita Landscape Ordinance shall apply; otherwise the following requirements shall apply: (1) landscape buffer of one (1) shade tree or two

- (2) ornamental trees shall be provided along the screening wall. (2) A landscaped street yard shall be provided along 29th Street North with an average depth of 20 square feet per lineal foot of frontage and one (1) shade tree or equivalent (two (2) ornamental trees or 10 shrubs per shade tree, but with a limit of no more than one-third of tree requirement being met by shrubbery) and (3) parking lot landscaping of one (1) tree per 20 parking spaces and allowing a credit for up to one-half the shade or ornamental trees in the landscaped street yard toward meeting this requirement and (4) continuous parking lot screening (minimum height of three (3) feet of shrubbery within the third growing season) of any parking lot within 150 feet of 29th Street North. A landscape plan prepared by a Kansas Landscape Architect for each lot indicating the location, type, and specification of plant materials shall be submitted to the Planning Department for its review and approval prior to the issuance of any building permits(s) on this land.
4. Storage of merchandise shall be allowed outside an enclosed building only in compliance with the general screening standards of the Unified Zoning Code and the following additional standards: (1) no outdoor storage or work areas shall be permitted in the front setback; (2) no required off-street parking space or loading area shall be utilized for storage; and (3) items stored outdoors shall not be visible from 29th Street North or any residentially zoned property.
 5. Roof-mounted equipment and loading docks, trash receptacles, ground level heating, air conditioning and mechanical equipment, free-standing coolers or refrigeration units, outdoor storage including portable storage containers, outdoor work areas or similar uses shall be screened from ground level view along 29th Street North and any residentially zoned property.
 6. Minimum setback requirements shall be 35 feet along 29th Street North, 25 feet along nonresidential local streets and 100 feet along residentially zoned property.
 7. Maximum height of 55 feet for all structures.
 8. All signs shall be limited to signs that would be allowed in the "LC" Limited Commercial zoning district; no off-site, billboard or portable signs shall be permitted.
 9. No building permits shall be issued for any development without municipal water and sewer service. Prior to any development, the developer shall be responsible for providing county standard paving to and across the site from the nearest paved arterial. County standard paving means six (6) inches of stabilized sub grade with six (6) inches of hot mix asphalt and includes proper ditches, side slopes and shoulders.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding property to the east and most of the north is zone "RR" and is in agricultural use except for several large estates. A high-voltage Westar transmission line is located within the subject tract, paralleling the western edge of the tract. The property west of the transmission line is zoned "SF-20" but was approved for "LI" Limited Industrial in 2000; establishment of the "LI" zoning is pending until platting is completed. The property to the south is zoned "SF-5" Single-family Residential and is being developed with urban-scale single-family homes.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-20" Single-family Residential and "RR" Rural Residential. A high voltage transmission line occupies the western strip of the property. Low-density residential use is less desirable near the transmission line without an appropriately wide buffer. The tract is on the edge of urbanizing low-density neighborhoods (the Fairmont and the Hawthorne), thus urban scale residential use like "SF-5", the automatic zoning district unless another district is requested, would be more compatible than the suburban density ("RR" and "SF-20") currently in place.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The main impact would be the potential for industrial traffic between residential neighborhoods and industrial uses in close proximity to residential uses to the south. The protective overlay is designed to mitigate the impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide" of the 1999 *Update to the Wichita/Sedgwick County Comprehensive Plan*, amended in January 2002, identifies the property as "low density residential". The Industrial Locational Guidelines of the 1999 Update to the Comprehensive Plan recommend that industrial uses: (1) should be located in close proximity to support services and provide good access to major arterials, truck routes, belt highways, utility trunk lines, rail spurs, airports and as extensions of existing industrial uses; (2) should not feed directly into local streets in residential areas; and (3) should be located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The proposed site potentially would constitute an extension of other industrial uses if the property to the west, which is approved for "LI" zoning, develops with industrial uses. Property to the west, which is approved for "LI" zoning, develops with industrial uses. Traveling one-half mile westward from the site to Greenwich and one-half mile southward to K-96 keeps traffic away from existing residential neighborhoods to the east and south along 127th Street East. The presence of a residential neighborhood on the southern property boundary poses conflicts that would need mitigation to avoid violating the third industrial locational guideline. The protective overlay is designed to mitigate these impacts.
5. Impact of the proposed development on community facilities: The development would require extension of water and sewer services. Any use will require paving to county road standards prior to development, and depending on the types of industrial uses, it will most likely generate the need for widening the roads or adding accel or decel lanes.

MOTION: Defer two weeks.

BARFIELD moved, **MCKAY** seconded the motion, and it carried (11-0).

6. Case No.: CON2005-05 – Donald and Janet Yoder (owner/applicant); Baughman Company c/o Terry Smythe agent) Request Sedgwick County Conditional Use for an airstrip on property zoned "RR" Rural Residential on property described as;

The East 100.00 feet, together with the north 360.00 feet of the following described tract: From the NW corner of Section 36, Township 28 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, N 90 degrees 00'00" E along the north line of the NW/4 of said Section 36, a distance of 1305.78 feet to the point of beginning; thence S 00 degrees 19'39" E, a distance of 1338.58 feet; thence N 90 degrees 00'00" E, a distance of 17.08 feet; thence S 00 degrees 27'00" E, a distance of 1325.25 feet to a point in the south line and 1320.00 feet east of the SW corner of said NW/4; thence S 89 degrees 54'08 E along the south line of said NW/4, a distance of 327.00 feet; thence N 00 degrees 27'00" W parallel with the west line of said NW/4, a distance of 2664.41 feet to a point in the north line of said NW/4; thence west 341.22 feet to the point of beginning, all being subject to road rights-of-way of record. Generally located South of 63rd Street South approximately one-third mile east of 135th Street West.

BACKGROUND: The applicant owns an existing airstrip on an 8-acre unplatted tract that is zoned "RR" Rural Residential and is located south of 63rd Street South and east of 135th Street West. According to aerial photographs, the airstrip has been in operation on the subject property since prior to 1974 and was developed in its current configuration in 1985 when the property was first zoned "RR" Rural Residential. In 1985, the airstrip became a legal, non-conforming use, as beginning in 1985 an airstrip required approval of a Conditional Use in the "RR" Rural Residential zoning district. Since the airstrip is non-conforming, the applicant has requested approval of a Conditional Use so that the existing airstrip on the subject property will conform with the zoning regulations.

"Exhibit A" (attached) shows the existing conditions of the subject property. The subject property is developed with approximately 10,000 square feet of hangar space and a grass runway that is approximately one-half mile long. The nearest home is located approximately 150 feet west of the south end of the runway and is owned by the applicant. There are no existing homes in the vicinity that are located under the approaches to the runway.

No changes are proposed for the airstrip, nor would any changes be permitted after approval of the Conditional Use. Were the property to remain a non-conforming use, the hangar space could be expanded by as much as 30% of the existing floor area. However, were the hangars damaged to an extent greater than 50% of their value, they could not be repaired or replaced without the requested Conditional Use approval.

The character of the surrounding area is rural with the airstrip, agriculture, and large-lot residential uses being the predominate uses in the area. All of the surrounding properties are zoned "RR" Rural Residential.

CASE HISTORY: The subject property is a legal, non-conforming airstrip.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Agriculture
EAST:	"RR"	Agriculture
SOUTH:	"RR"	Agriculture
WEST:	"RR"	Agriculture

PUBLIC SERVICES: The subject property has access to 63rd Street South, which is an unpaved section line road. Traffic generated by the airstrip can be supported by the existing condition of the road. The subject property will need to be served by on-site water and sewer service, if such services are necessary.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Rural" development. The "Rural" category is intended to accommodate agricultural uses and rural based uses that are no more offensive than normal agricultural uses. The proposed airstrip is consistent with the Land Use Guide of the Comprehensive Plan.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. The subject property shall be developed in general conformance with the approved site plan.
2. Development and use of the subject property shall be in accordance with all applicable federal, state, and local rules and regulations including, but not limited to, building and construction codes, health codes, and operational standards.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is rural with the airstrip, agriculture, and large-lot residential uses being the predominate uses in the area. All of the surrounding properties are zoned "RR" Rural Residential. The airstrip is consistent with the zoning, uses, and character of the area.
2. Extent to which removal of the restrictions will detrimentally affect nearby property. The subject property has been used as an airstrip for more than 30 years with no apparent detrimental impacts on nearby property. No future detrimental affects are anticipated from approval of the requested Conditional Use, as no changes to the airstrip would be permitted by the Conditional Use.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Rural" development. This category is

intended to accommodate agricultural uses and rural based uses that are no more offensive than normal agricultural uses. The airstrip is consistent with the Land Use Guide of the Comprehensive Plan.

4. Impact of the proposed development on community facilities: No impacts on community facilities are anticipated.

SCOTT KNEBEL Planning staff The staff report indicates that there were no changes requested, and that was true at the time the report was written. The site plan that you have attached to your staff report shows the hangars at approximately 10,000 square feet in size, which is the existing size of the hangars. I have handed out a revised Exhibit A, a color drawing, that now shows a future 5,000 square foot hangar expansion, and an associated concrete apron that would be in front of that, which was provided to staff just prior to the meeting. Staff is recommending approval subject to the conditions with the exception that the approved site plan would be the Exhibit A, revised March 10, 2005, rather than the site plan that was mailed to you previously. That would then provide for a 5,000 square foot hangar expansion space, as opposed to no expansion, which was stated in the staff report.

TERRY SMYTHE, Baughman Company It is my mistake that the 5,000 square foot hangar expansion wasn't on the original drawing. If you look at the drawing, there is some discussion right to the west of us about some future homes. There are 2-3 individuals that would like to build out there and use the additional hangar space for their airplanes, and that is why we think there is going to be an expansion of that hangar.

MOTION: Approve subject to staff comments, and to approve the Exhibit A, revised March 10, 2005.

JOHNSON moved, **MITCHELL** seconded the motion, and it carried (11-0).

7. **Case No.: CON2005-04** – Thomas and Sharon Schuckman (owners) Request Sedgwick County Conditional Use to permit an accessory apartment on property zoned "RR" Rural Residential on property described as;

Beginning at a point 1015.06 feet west of the northeast corner of the East one-half of the Northeast Quarter of Section 3, Township 29 South, Range 3 West of the 6th P.M., Sedgwick County, Kansas, thence south with a deflection angle to the left of 89 degrees, 41' a distance of 740.00 feet to a point, thence west with a deflection angle to the right of 89 degrees 41' a distance of 312.03 feet to a point; thence north with a deflection angle to the right 90 degrees 19' a distance of 740.00 feet to a point on the north line of said East one-half of said quarter section, thence east a distance of 312.03 feet to the point of beginning. Generally located South of 71st Street South, 1200 feet west of South 247th Street West.

BACKGROUND: The applicant is requesting a Conditional Use for an accessory apartment in the County. The application area is a 5-acre un-platted parcel located south of 71st Street South and west of 247th Street West. The site is developed with a single-family residence, garage, and outbuilding. All surrounding property is zoned RR. Agricultural properties lie east, west, north and south of the application area, farmsteads and single-family properties lie to the north and east. The applicants propose to build the accessory apartment north of the existing residence, attached to a carport. Sedgwick County Code Enforcement requires building and sanitary sewage system approval for the proposed use.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	farmstead, agricultural fields
SOUTH:	"RR"	agricultural fields
EAST:	"RR"	agricultural fields, single-family residence
WEST:	"RR"	agricultural fields

PUBLIC SERVICES: The property is located on 71st Street South, a paved two-lane section line road with a 50-foot half-width right of way. The property utilizes an existing lagoon for sewage.

CONFORMANCE TO PLANS/POLICIES: The "Sedgwick County Development Guide" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as "rural."

The *Wichita-Sedgwick County Unified Zoning Code* Section III-D.6.a states that accessory apartments are required to be under the same ownership as the primary residence, compatible in appearance with the primary residence, and utilize the same water and sewer service as the primary residence.

RECOMMENDATION: Planning staff finds that the application meets the conditions of the Unified Zoning Code. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions.

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning.
2. Development and maintenance of the site shall be in conformance with the approved site plan.
3. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: All property surrounding the application area is zoned RR and used for agricultural purposes. The proposed accessory apartment is approximately 200 feet from the 71st Street South right-of-way.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR, which primarily permits agriculture and large lot residential uses. The site could continue to be used without the Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Provided that the proposed accessory apartment meets all applicable codes, the proposed accessory use should have no affect on the surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested conditional use is in conformance with the *Wichita-Sedgwick County Comprehensive Plan* and the *Wichita-Sedgwick County Unified Zoning Code*.
5. Impact of the proposed development on community facilities: None identified.

MOTION: Approve subject to staff recommendations.

MCKAY moved, **MITCHELL** seconded the motion, and it carried (11-0).

8. **Case No.: CON2005-03** – Hughly L. Brown Request Conditional Use for an ancillary parking area on property zoned "SF-5" Single-family Residential on property described as;

Lots 1 & 2, Block L, Audrey Matlock Heights 1st Addition, Wichita, Sedgwick County, Kansas, generally located at the southeast corner of 25th Street North and Lorraine.

BACKGROUND: The applicant requests a Conditional Use to allow ancillary parking on Lots 1 & 2, Block L, Audrey Matlock Heights 1st Addition. The subject site's 0.34-acres are zoned "SF-5" Single-family Residential, are vacant and are located on the southeast corner of 25th Street North and Lorraine Avenue, one block west of Hillside Avenue. The applicant needs the ancillary parking for the his existing business, a rental hall, located in the adjacent commercial strip building (built mid 1950s, Reserve D, except for the east 100-feet, Audrey Matlock Heights 1st Addition) located east of the subject site, on the south side of 25th Street North. Ancillary parking areas may be permitted in residential zoning districts through approval of a Conditional Use. Ancillary parking areas are subject to the Supplementary Use Regulations contained in Section III-D.6.p. of the Unified Zoning Code (see attached).

The subject site is four blocks north of Wichita State University and a block west of a large cemetery (Old Mission, zoned "B" Multi-family Residential), which runs from 21st Street North to 25th Street North. The subject site is located in a predominately single-family residential area (homes built early to mid 1950s on the west side of Hillside), which has six churches, an elementary school, a Union Mission shelter and thrift store and Grove Park within one to four blocks of it. Commercial development is scattered along Hillside north of 21st Street North, with the subject site being located adjacent to one of the few small commercial clusters between 21st Street North and 29th Street North. The subject site is located west of the applicant's business, A Touch of Class Banquet Hall, which is located in a small commercial strip building that also contains a barbershop, a beauty shop and another business. Just east of the commercial strip building, is a liquor store, which has Hillside frontage. All of these properties are zoned "LC" Limited Commercial. Properties north of the subject site, across 25th Street North, include a Costal convenience store located on Hillside and, west of the Costal, a vacant property. Both are zoned "LC". "SF-5" zoning and single-family residential development about the subject site's south side and are adjacent to it on its west side, across Lorraine Avenue and also on its north side, across 25th Street North.

The attached site plan illustrates a proposed 37-stall parking lot with a 6-foot high fence on its west and south sides, where it is adjacent to and abutting "SF-5" zoning and existing single-family residential development. Access appears to be through a paved alley located between the subject site and the adjacent eastern site where the applicant's business is located, and then onto 25th Street North. No landscaping, lighting or other features are shown on the site plan. The site plan does not include the applicant's current business site, located on the adjacent east commercial strip. This lack of information makes it difficult to determine the current available parking for the commercial strip, which in turn could be used to analysis the request for additional ancillary parking.

CASE HISTORY: The subject property is platted as part of the Audrey Matlock Heights 1st Addition, which was recorded with the Register of Deeds March 19, 1951. In 1998 the applicant applied for a Conditional Use, CU-499, for a tavern and drinking establishment within the commercial strip building that he is still located in. The 1998 site plan, submitted with CU-499, shows 51 existing parking spaces on the commercial strip's site, the previously mentioned portion of Reserve D, Audrey Matlock Heights 1st Addition. The 1998 site plan also shows the south portion of subject site, Lot 2, being used for additional parking. The additional off site parking was needed in an attempt to meet the required 150 parking spaces for a tavern and drinking establishment, which the City Fire Department had determined to have a maximum occupancy of 299 people. CU-499 was recommended for denial, 7-0, by CPO I December 14, 1998 and by the MAPC, 9-0, December 17, 1998. The applicant declined to appeal the MAPC's recommendation to the City Council.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Single-family Residential
"LC" Limited Commercial

Single family residences
convenience store, vacant land

SOUTH: "SF-5" Single-family Residential	Single family residences
WEST: "SF-5" Single-family Residential	Single family residences
EAST: "LC" Limited Commercial	Liquor store, car wash
"B" Multi-family Residential	Cemetery

PUBLIC SERVICES: Normal municipal services are available. Transportation access is via 25th Street North, a paved residential street.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan indicates that the subject property is appropriate for "Residential" development. Ancillary parking areas may be permitted in residential zoning districts through approval of a Conditional Use, subject to the Supplementary Use Regulations contained in Section III-D.6.p. of the Unified Zoning Code. The MAPC has an informal policy of supporting expansions of existing businesses at current locations, which the requested ancillary parking would seem to accommodate. The issue with applicant's current request for additional parking is that it seems to have been made to support a business that appears to be not permitted by right in the "LC" zoning district. As verbally presented by the applicant, the rental hall will allow the consumption of alcohol on site and allow dancing and other entertainment on site. Although these activities will not be on a daily basis, but only when the hall is rented, they appear to qualify the business as either a nightclub or a tavern and drinking establishment, both of which would require a Conditional Use in the "LC" zoning district. To provide an area without alcohol consumption for entertainment, dancing, or a public gathering, a wedding reception, on the applicant's current business site, the applicant would have to apply for a zoning change to "OW" Office Warehouse to allow an auditorium. It is also understood that the applicant's business is not a non-profit private club.

RECOMMENDATION: The commercial strip that the applicant's business is located in is, based on the 1998 site plan and measuring off 2003 aerials, approximately 11,500 – 12,000 square feet in size. General retail, which is what appears to be the predominate uses in the commercial strip, requires one parking space per 250 square feet, or 44 – 48 parking spaces for this commercial strip. Per the applicant's 1998 site plan, there are 51 existing parking spaces on site, the previously mentioned portion of Reserve D. The existing parking spaces exceed the minimum parking requirements for the general retail at this site. Staff feels the applicant has applied for the Conditional Use for ancillary parking prematurely, in reference to his rental hall probably being a use not permitted in the "LC" zoning district without either a Conditional Use or a zone change. Based on the information available prior to the public hearing, staff recommends that the request for ancillary parking be DENIED.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the area is predominantly single-family residential, with six churches, an elementary school, a university, a cemetery, a City Park, a Union Mission shelter and thrift store located within a block to four blocks of the subject site. Commercial development along Hillside between 21st Street North and 29th Street North is scattered and small in scale, with the subject site being adjacent to one of those commercial sites.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-5" Single-family residential and could be developed with uses permitted in that district, although its proximity to the commercial strip has probably made it less desirable for single-family residential development. An ancillary parking area may be permitted with approval of a Conditional Use and use of the subject property, as a parking lot is a suitable use of the property if it furthers the continued viable use of a nearby permitted commercial use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code, the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, and the additional zoning restrictions of a Conditional Use could limit noise, lighting, and other activity from adversely impacting surrounding residential uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan indicates that the subject property is appropriate for "Residential" development. As previously stated, the MAPC has an informal policy of supporting expansions of existing businesses at current locations, which the requested ancillary parking would seem to accommodate. But, again, as previously stated the issue with applicant's current request for additional parking is that it appears to have been made to support a business that is not permitted by right in the "LC" zoning district.
5. Impact of the proposed development on community facilities: The proposed uses of this property would have limited impact on community facilities.

If, however, the Planning Commission finds ancillary parking as an appropriate use for Lots 1 & 2, Block L, Audrey Matlock Heights 1st Addition, regardless of the business it is propertied to support, staff recommends that it be approved subject to the following conditions:

1. The ancillary parking area shall be developed and operated in conformance with the requirements of Section III-D.6.p. of the Unified Zoning Code, except as noted in the conditions of approval.
2. A six-foot high screening fence shall be located on the south and west property lines entirely on the subject property and shall not extend beyond the south or west end of the paved surface of the parking lot.
3. A five foot landscaped buffer shall be provided along the south and west sides of the parking lot and shall be planted with evergreens, a minimum of five-feet in height, every 20-feet on the south side and west sides.
4. Screening and landscaping shall be per the landscape code for parking lots along the site's 25th Street North and east side.

5. The entrances to the parking lot shall be posted with signs not exceeding six square feet in area indicating that trespassing on the property is not permitted and that the parking lot is reserved for permitted parking only. Entrance onto the parking lot shall be restricted to the platted alley, along the east side of the subject site.
6. Outside pole lighting shall be no taller than 14-feet and directed onto the site and away from the residential development abutting the south side of the site and the residential development adjacent to the west and north sides of the site. No lighting shall be located within 40-feet of the south property line.
7. A revised site plan addressing the conditions of approval shall be submitted for review and approval by the Planning Director or his designee prior to the issuance of a building permit but no later than 180 days after approval of the Conditional Use.
8. All landscaping as required by the Landscape Ordinance and the conditions of approval for the Conditional Use shall be installed within a year of final action by the governing body and maintained per a landscape plan approved by the Planning Director or his designee prior to the issuance of a building permit but no later than 180 days after approval of the Conditional Use. The landscape plan shall specify the plant materials and method of irrigation in conformance with the requirements of the Landscape Ordinance.
9. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

BARFIELD Has there ever been a Conditional Use approved for this property?

LONGNECKER. In 1998 the applicant applied for a Conditional Use, CU-499, for a tavern and drinking establishment within the commercial strip building that he is still located in. The 1998 site plan also shows the south portion of subject site, Lot 2, being used for additional parking for the CU. The CU was recommended for denial, 7-0, by CPO and by the MAPC. The applicant declined to appeal the MAPC's recommendation to the City Council.

BARFIELD It was applied for but it was denied?

LONGNECKER Correct.

MARNELL They are applying for ancillary parking, which isn't required, but I don't understand why that would be a problem to have more parking places than required. This is a land use issue, not a code enforcement issue. We don't have before us a drinking establishment request, and I don't know how we would deal with that. It seems like we are jumping the gun, saying, "Don't do this", when there is no legitimate reason that I can see, not to grant the ancillary parking. Unless you have different reasons than saying you think they are going to serve alcohol or somebody has said they have.

LONGNECKER The MAPC has an informal policy of supporting expansions of existing businesses at current locations, which the requested ancillary parking would seem to accommodate. The issue with applicant's current request for additional parking is that it seems to have been made to support a business that appears to be not permitted by right in the "LC" zoning district. As verbally presented by the applicant, the rental hall will allow the consumption of alcohol on-site and allow dancing and other entertainment on-site. We have noted, in the staff report, that, if the Planning Commission wants to approve this request, regardless of the business it is purporting to support, staff recommends the listed nine conditions be attached to the approval.

MARNELL This is a land use issue, and we are trying to be zoning enforcement, and ordinance enforcement for the City of Wichita and that is not our job.

LONGNECKER That is why I put in the alternate recommendation. But, I felt that we had to at least give a heads up about what we knew about the business.

MARNELL What we are looking at is the ancillary parking for the existing location.

MILLER What we point out is, that if in fact this is a nightclub, then the application would include the parking, and the parking is not legal, because he doesn't have a legal nightclub permit. That is why it is important to point out that if the parking is in support of the nightclub, it is illegal, therefore we wouldn't be supporting it and it is a land use issue. But if it is, from your perspective, strictly additional parking for a legal use, then that is why we put the second recommendation in the staff report. There is no way that we could suggest that it would be an appropriate application when you include the parking as part of the tavern activity or nightclub activity.

MARNELL Is the applicant here today?

LONGNECKER No, and the applicant was not present at the District Advisory Board meeting Monday night, and the DAB recommended unanimous denial 8-0.

BARFIELD The way that I interpret this application is that this is not a nightclub, as I understand it; that this is a rental hall, for a birthday party, wedding party, where there would not necessarily be any alcohol consumed on those premises.

MILLER The definition in the Unified Zoning Code is a nightclub is anywhere where there is alcohol and live entertainment.

LONGNECKER We have only had a verbal dialogue with the applicant and he said alcohol was consumed on the site.

MCKAY Does the applicant have a liquor license?

LONGNECKER No.

BISHOP We have been in this situation before, where we have somebody that owns a building and they could rent it out to an individual, and he can wash his hands of it and say their requirement to get a liquor license is up to them. This is the same situation that we had on 21st Street.

MCKAY Did you say that this building is non-conforming already?

LONGNECKER It is in compliance as general retail.

MCKAY This is a zoning case, and the applicant has a building and he wants a Conditional Use to be able to park more cars in there. Liquor should not even be an issue because he doesn't have a liquor license.

MILLER The definition of nightclub is anywhere where there is live entertainment and alcohol.

BARFIELD There is no live entertainment at a normal birthday party.

MILLER Dancing is included in live entertainment. We want to make sure that the applicant does not come back later and say that he has a sanctioned legal use because this was before the Planning Commission. So if it is approved we just want you to know what could end up happening.

BISHOP I have an enforcement question for the Law Department. Let's say the gentlemen rents out the building for people to use to have a party, if they chose to have dancing, live entertainment, and alcohol, who is the subject of the enforcement, the landlord, or is it simply whoever is there that evening.

JOE LANG First Assistant City Attorney It would be the property owner that would be subject to the enforcement action because it is the property owner who is required to have the zoning. This is on the land use issue, but if alcohol were being served illegally then the person renting the hall could also be held liable for that for not have the proper license.

BISHOP Is it possible for the Police Department to be the enforcement agent in that regard or does Central Inspection have to have Inspectors who are available at 9:00 to 1:00 a.m.?

LANG The police would do the enforcement of any liquor violation. The OCI staff could rely on the police report to determine if there is a land use violation.

MARNELL Joe, would granting ancillary parking to a business situated such as this give it any right to become a nightclub automatically?

LANG Legally no, there might be the perception of it, but legally no.

MARNELL Is it just parking?

LANG Ancillary parking is tied to the use for which the parking for, so they do go together in that sense. You can't have the parking standing alone without being tied to a property that has a use.

BISHOP If we are considering a Conditional Use at this address, is it appropriate for our consideration of that case for planning staff to request recorded enforcement action over the last 18 months, and for us to have that as part of the record? Has this property been cited? Have there been police called to that location? Is that appropriate for us to request?

LANG Certainly as part of your balancing under the Golden factors, the use of the principal property is certainly something that you could become aware of, and police information could be entered into the record if you wanted to request it.

BISHOP I would like to do so for this case, and I think this case needs deferred.

BARFIELD I am going to be opposed to that, because I sat here about six months ago, and a club on West Kellogg where there had been numerous police calls, stabbings, and fights, and that was not entered into the record on that case.

MITCHELL If we recommend approval and he spends the money that we have asked him to do to comply with these nine conditions, and then he finds out that he can't do that business without it being a legal operation, we haven't done him a favor.

DUNLAP Bill, do you know if the applicant agrees to these nine conditions, and is the applicant the same as in the 1998 case?

LONGNECKER No, I don't know that and yes the applicant is the same applicant for the 1998 case, which was denied.

MARNELL If the applicant fails to comply with the conditions of approval, the Conditional Use permit would be revoked, correct?

LONGNECKER Correct.

MARNELL I don't think we are responsible for how people run their businesses.

BARFIELD On Condition #2, why is the screening on the west property line required?

LONGNECKER It is adjacent to residential property across the street, and this is a requirement to protect them from headlights, noise, and offer a buffer.

BARFIELD I am seeing a letter here from someone that says they hear noise from a club, can you show me where that person lives?

LONGNECKER I believe it is right to the south of the commercial building itself. I believe that property owner is in the audience today. (Indicates on aerial)

WILLIE BURTON, 2356 N. Poplar, Wichita, KS 67219 I am with the Matlock Heights Neighborhood Association. We are opposed to this zoning and/or Conditional Use, because he will not comply with whatever use there is. We asked for cameras, additional lightening, security guards, when it was a Teen Club, to draw some guidelines for the safety of the children that he had there, and he did not comply with the request. The applicant wants to move into a fulltime adult nightclub, drinking establishment. We have sat down with the applicant, the City Council member and Chief Norman Williams; all were present at that meeting to sit guidelines for the children. When it was a club, we had to get it shut down because of the fighting and the shootings that was going on there. The residences to the south of this property are in the pathway of bullets and people running through the yards trying to get away from trouble. Where he now wants to put this parking lot, there is a house just south it, that will be adjacent to the parking lot, and a elderly lady lives there by herself, and she has to leave her home when trouble is there and go stay with someone else, and she has had to do that numerous times. She is afraid to sign protest petitions against him because she is afraid of retaliation and asked me to come today and express these concerns. We don't want a drinking establishment here because there is nothing but trouble from that lot. I am opposed to this application.

BARFIELD When it was a Teen Club, was Mr. Brown involved in the operation of that club?

BURTON He was there when Mr. William was renting it from him; he was there in the meeting that we had when it was a Teen Club.

BARFIELD Was he involved in the operation of the club?

BURTON I don't know, but he owns it.

BARFIELD Have you reviewed the staff report with the nine conditions?

BURTON Yes, I have.

BARFIELD You see there is a requirement of a 6-foot screening fence to be located on the south side of that property?

BURTON Mr. Barfield, we have sat down with this applicant and asked him to do these things for the safety of those kids, and he did not comply with that.

KATTIE GATEWOOD, 3120 Ethel, Wichita, KS 67219 My house is right behind this club. I hear the noise coming from this property across the alley. There was a live band in there Saturday night. As far as parking and this area it doesn't make any difference how many parking spaces you have, there are people still parking in other property owners' yards and on the street. They walk across our lawns and jump our fences. This is not a safe operation. When the police come, do you think they are going to go around that fence when they run? No, they run through my yard and run between houses shooting guns. These people are supposed to have lights on in the back of that place, but they were not on Saturday night when they were having a party. I put a fence around my yard to keep them off my property but they jump the fence. Mr. Brown doesn't clean up around there, he doesn't take care of the place. These people are drunk or high on drugs. The traffic will bring more people and more trouble in our neighborhood.

HENTZEN What is the zoning on the buildings that are there?

LONGNECKER The zoning is Limited Commercial.

HENTZEN Are there adequate parking places for any business that fits Limited Commercial?

LONGNECKER Based on the square footage of the building, which we scaled off of the 1998 site plan and also which we scaled off of the section here, which is not included in the 1998 site plan, the structure figures to be approximately 11,500 to 12,000 square feet in size. In looking at the use as general retail, since that seems to be the predominate uses in this building, that would require 44-48 parking spaces, and according to the 1998 site plan there are 51 existing parking spaces on the site. I could not confirm that on-site because most of the stripes were worn off and faded.

BARFIELD Why is there no buffer between the LC and the SF on the south side?

LONGNECKER Probably at the time the building was built there was not a solid screening requirement.

MOTION: To deny the application.

BISHOP moved, **GIBBS** seconded the motion.

MARNELL I am not going to support the motion, and I think it would be inappropriate for me to express an opinion on that business which may be coming before us for a change in zoning on that. What we have before us is simply an ancillary parking request.

SUBSTITUTE MOTION:

MARNELL moved, **BARFIELD** seconded the motion to approve the application and include the requirements that are in the staff report.

MCKAY The question was asked why isn't there a barrier? The answer was because it wasn't required at the time in this application can that be put into as a condition in this application?

MILLER In my opinion it is an enforcement issue.

MARNELL I think what Mr. McKay was asking is to simply add a 10th condition on this that on the backside of that property that this is made ancillary to.

BARIFELD I don't think you can do that because his application does not apply to the building.

DUNLAP Joe, can we require fencing along the backside of the property?

LANG It is my opinion, and opinion only, but I think because the parking is dependent upon the principle use that the conditions can apply to the principal property as well.

BARFIELD WITHDRAWS SECOND

AMENDED SUBSTITUTE MOTION:

MARNELL moved, **MCKAY** seconded the motion to approve the application and include the requirements that are in the staff report and add a condition that the south property line where the commercial buildings are physically sitting that a screening fence would be put along there, over to the west property line, thence north, to where it would hit the application area where it is already requiring one going to the west and to the north.

MITCHELL If an application were made for what is shown on here as the western portion of this tract, north of the alley and east of the alley, for a nightclub or drinking establishment, can it be permitted because of the location being adjacent to residences?

LANG Probably not.

BARFIELD My comment is in regards to the last condition. it was two weeks ago that we had a case before us about a property that the owner was not here and was going to make changes, and it was going to be unfair without the property owner being present at the meeting, and I think that same thing applies to this case.

DUNLAP I have a question about the nine conditions staff has asked for, which of those would not normally be associated with a parking lot that was adjacent to say a barbershop and residential? Have we applied something special with this lot only because of the use of the building?

LONGNECKER The only thing that we have added, beyond the required conditions for ancillary parking is along its south and west sides, where it is abutting or adjacent to residential, we have got a requirement for additional trees, which we are permitted to recommend, per the zoning code.

JOHNSON I am curious about the lightening requirement of the lot, because the last thing we want to do is build a screened in parking lot and it be dark.

BARFIELD I think condition six does address that.

LONGNECKER As far as the parking lot that we are considering now is addressed by condition six.

JOHNSON I am thinking behind the building.

LONGNECKER There was nothing in the previous Conditional Use that addressed lighting on the building.

MCKAY What are the requirements for lightening on Limited Commercial abutting residential?

LONGNECKER It needs to be directed onto the site and away from the residences.

MILLER There is no requirement for lightening, the only zoning requirement is to keep it all in the same property on which the use is.

JOHNSON I would want that in there.

DOWNING There is lightening, but it was just not turned on?

BISHOP I would like to say that where there is a case that compliance seems to be such a crucial issue, and the applicant has not shown up for the DAB meeting or the MAPC meeting in order to be able to respond, I think we should wait until we have had a chance to look at the non-compliance history for this location.

MTICHELL Someone please describe the additional fence proposal in the amended motion.

MARNELL It will have shielding from that parking lot as well as the ancillary parking lot.

LONGNECKER Described the fencing by pointing it out on the aerial

DUNLAP We are going to vote on the substitute motion which includes the nine conditions from staff and an additional condition requiring the fencing that was just described on the south side of the property line.

MCKAY Are we talking about a 6-foot barrier? Not a chain link fence?

MARNELL That is correct a 6-foot screening fence.

SUBSTITUTE MOTION CARRIES (9-2) BISHOP, GIBBS OPPOSED.

9. **Case No.: DR2005-09** – Request The City of Sedgwick seeks unilateral annexation of a portion of roadway and easement located adjacent to The City of Sedgwick

On February 7, 2005, the City of Sedgwick passed Resolution No. 020705 authorizing a public hearing on April 18, 2005 for the purposes of considering the unilateral annexation of a portion of roadway and easement located on and adjacent to Ridge Road, adjacent to the southwest limits of the City of Sedgwick.

The proposed annexation area consists of the westerly half (50 ft) and easements of a 1,842 ft. long segment of Ridge Road located adjacent to the southwest boundary of the City of Sedgwick. The easterly half (50 ft.) of this same road segment currently falls within the Sedgwick city limits, thereby creating a situation of split jurisdiction and road maintenance with the County. The proposed annexation area does not fall within the Small City Growth area as designated within the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in 2002. However, this section of Ridge Road can be more efficiently serviced and maintained by the City of Sedgwick, rather than being left under the split jurisdiction of the County and the City.

Prior to unilaterally annexing property, Kansas statutes require that a plan be prepared indicating the means by which city services will be extended to the area proposed for annexation. The eligible property consists solely of public right-of-way and accompanying easements and does not require services or a plan for the extension of services thereon. The City of Sedgwick has advised that it will assume responsibility for the maintenance of the entire public right-of-way and the accompanying easements.

Kansas statutes require that the planning commission review the proposal and make a finding of compatibility or incompatibility with any adopted land use or comprehensive plans related to the area and the annexing city.

After review by staff, it has been concluded that the proposed annexation of the westerly 50 ft and accompanying easements of a 1,842 ft. long segment of Ridge Road located adjacent to City of Sedgwick is substantially compliant with the intent of the Wichita-Sedgwick County Comprehensive Plan.

Staff recommend that the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 020705 of the City of Sedgwick to be substantially compliant with the intent of the adopted Wichita-Sedgwick County Comprehensive Plan

MOTION: Take the recommendation action.

MCKAY moved, **MITCHELL** seconded the motion, and it carried (11-0).

The Metropolitan Area Planning Department informally adjourned at 3:21 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2005.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)

